

REMARKS

In the **non-final** Office Action mailed July 21, 2010 the Office noted that claims 38-57 were pending and rejected claims 38-43 and 45-51. In this amendment claims 38 and 45-50 have been amended, no claims have been canceled, and, thus, in view of the foregoing claims 38-57 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections and objections are traversed below.

INFORMATION DISCLOSURE STATEMENT

The Office asserts that the originally filed IDS was deficient in that the copies of the foreign references were not filed therewith. The Applicant re-submits herewith the IDS with the foreign references.

CLAIM OBJECTION

Claim 45 stands objected to for informalities. In particular, the Office asserts that the claim is improperly dependent. The Applicant has amended the claims to overcome the objection. The Applicant submits that no new matter is believed to have been added by the amendment of the claims.

Withdrawal of the objection is respectfully requested.

REJECTIONS under 35 U.S.C. § 112

Claims 45, 46, 47-51 stand rejected under 35 U.S.C. §

112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular the Office asserts that "unremovably preassembled", "flange shaped" are indefinite. The Applicant has amended the claims to overcome the rejections. The Applicant submits that no new matter is believed to have been added by the amendment of the claims.

Withdrawal of the rejection is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 38, 39, 41-43 and 45-48 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Stearns, U.S. Patent No. 2002/0066235. The Applicant respectfully disagrees and traverses the rejection with an argument and amendment.

The Applicants have amended claim 38 to recite "An object, comprising an exposed surface which is provided with a safety device for securing a personal fall protection, directly or indirectly, said safety device comprises an anchoring means with an anchoring member for securing said personal fall protection, and said safety device is secured to said surface by means of fastening means **which leaves said surface puncture free**, said fastening means comprise a flexible fastening flap which extends laterally with respect to said anchoring means, and said flexible fastening flap is glued, welded or otherwise locally bonded to said exposed surface of said object to render a firm

and durable connection.” (Emphasis added) Support for the amendment may be found, for example, in Figures 1, 10 and 12 which illustrate show a part of the surface (10) of an object with the flap of the safety device glued, welded or otherwise adhered in place. The Applicants submit that no new matter is believed to have been added by the amendment of claim 38. Claim 45 has been amended in a manner consistent with the amendment of claim 38.

The present invention as embodied in the claims is based on the recognition that in the event of a fall the forces exerted on the anchoring member are directed substantially parallel to the surface to which the safety device is mounted and that, especially in a relatively flat configuration, a flexible fastening flap which extends laterally in the same direction and is glued, welded or otherwise adhered to the surface can, even in itself, be sufficiently strong to withstand such forces. Therefore additional mechanical fasteners like e.g. bolts are not necessary, and puncturing of the surface may be avoided.

In contrast, Stearns discusses a roof mount comprising an attachment mount to provide an anchoring basis for a mechanical fixture to be applied on a roof, like e.g. a safety railing, snow guard or a fence. This document does not disclose a safety device for a personal fall protection, nor suggests that the roof mount may be safely used as a safety device for a personal fall protection. Furthermore, to be able to mount the

attachment base, a base member is secured into the roof by means of threaded bolts to provide a firm and durable connection to the roof.

These bolts clearly puncture the surface. There is no disclosure in Stearns of fastening means that provide a firm and durable connection without puncturing said surface. In this regard, it is noted that Stearns discloses an intervening membrane patch of e.g. synthetic rubber, which is glued against the surrounding roof surface, but merely to provide a watertight finishing which prevents leakage. There is teaching or suggestion at all in Stearns that this membrane patch may serve as a fastening flap which, by itself, is sufficiently strong to withstand the forces exerted thereon in the event of a fall and which may be used to bring about a firm and durable connection. In fact Stearns discloses that for certain types of roofs (presumably where leakage is not an issue) the membrane patch is not even needed (see ¶ 0047).

For at least the reasons discussed above, claims 38 and 45 and the claims dependent therefrom are not anticipated by Stearns.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claim 40 stands rejected under 35 U.S.C. § 103(a) as being obvious over Stearns. The Applicants respectfully disagree

and traverse the rejection with an argument.

With respect to claim 40, which specifies that the flexible fastening flap of the safety device comprises a bituminous or plastic roof-covering material, the Office rejects this claim as being unpatentable over Stearns. The examiner refers to roof shingles being disclosed by Stearns as support for his argument that it would have been obvious to one of ordinary skill in the art to use a wall covering material comprising bituminous material.

However, the roof shingles disclosed in Stearns are part of the roofing present on the roof onto which the roof mount of Stearns is placed and not part of the membrane patch. Stearns fails to disclose a bituminous or plastic roof-covering material for the membrane patch.

Further, Stearns does not at all disclose a flexible fastening flap for securing the safety device to the surface in a firm and durable manner. Stearns merely mentions a membrane patch that is only applied after the base member has been secured to the surface with bolts to provide a watertight finish. Nothing in Stearns would teach one of ordinary skill that a flap comprising bituminous or plastic roof-covering material may be sufficiently strong to be used as fastening flap for a safety device for securing a personal fall protection.

Therefore, a fastening flap comprising bituminous or plastic roof-covering material is neither disclosed nor rendered

obvious by Stearns.

Claim 49 stands rejected under 35 U.S.C. § 103(a) as being obvious over Stearns in view of Woodyard, U.S. Patent No. 5,287,944. The Applicant respectfully disagrees and traverses the rejection with an argument.

Woodyard adds nothing to the deficiencies of Stearns as applied against the independent claims. Therefore, for at least the reasons discussed above, Stearns and Woodyard, taken separately or in combination, fail to render obvious claims 49.

Claim 50 stands rejected under 35 U.S.C. § 103(a) as being obvious over Stearns in view of Woodyard in view of Poldmaa, WO 02/14625. The Applicant respectfully disagrees and traverses the rejection with an argument.

Woodyard and Poldmaa add nothing to the deficiencies of Stearns as applied against the independent claims. Therefore, for at least the reasons discussed above, Stearns, Woodyard and Poldmaa, taken separately or in combination, fail to render obvious claims 50.

Claim 51 stands rejected under 35 U.S.C. § 103(a) as being obvious over Stearns in view of Woodyard in view of Poldmaa in view of Carroll, U.S. Publication No. 2002/0100244. The Applicant respectfully disagrees and traverses the rejection with an argument.

Woodyard, Poldmaa and Carroll add nothing to the deficiencies of Stearns as applied against the independent

claims. Therefore, for at least the reasons discussed above, Stearns, Woodyard, Poldmaa and Carroll, taken separately or in combination, fail to render obvious claims 51.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 112, 102 and 103. It is also submitted that claims 38-57 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/James J. Livingston, Jr./  
James J. Livingston, Jr.  
Reg.No. 55,394  
209 Madison St, Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

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